

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 20060 of 2007(K)

PETITIONER:

**V.P.SHEEJA, W/O OF VINOD V.C.,
AGED 30 YEARS, RESIDING AT KUNIYIL HOUSE,
POST PANTHAKKAL, MOOLAKKADAVU, MAHE,
WORKING IN L.D.CLERK, SREERAMASWAMY TEMPLE,
THIRUVANGAD.**

**BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.M.NASARUDDEEN**

RESPONDENTS:

- 1. THE EXECUTIVE OFFICER,
SREE RAMASWAMY TEMPLE, THIRUVANGAD,
THALASSERY, KANNUR DISTRICT.**
- 2. SMT. JAYASREE,
W/O LATE SIVARAMAKRISHNA MOOSAD,
'RAIL VIEW', THIRUVANGAD, THALASSERY,
KANNUR DISTRICT.**
- 3. THE MANAGING TRUSTEE,
BOARD OF TRUSTEES,
SREE RAMASWAMY TEMPLE, THIRUVANGAD,
THALASSERY, KANNUR DISTRICT.**
- 4. THE COMMISSIONER,
HINDU RELIGIOUS & CHARITABLE ENDOWMENTS,
CIVIL STATION, KOZHIKODE.**

**BY ADV. SRI.K.V.SOHAN - R1 & R3
SMT.SREEJA SOHAN.K.
SRI.R.SURENDRAN - R2
GOVERNMENT PLEADER SI.BEJOY CHANDRAN - R4**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

W.P.(C) NO.20060/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER OF THE EXECUTIVE OFFICER OF SREE RAMASWAMI TEMPLE, THIRUVANGAD DT. 15.4.98.

EXT.P2:- COPY OF THE RESIGNATION LETTER OF 2ND RESPONDENT DT. 15.9.98.

EXT.P3:- COPY OF THE RESOLUTION DT. 6.10.98.

EXT.P4:- COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DT. 9.10.98.

EXT.P5:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT. 31.12.99.

EXT.P6:- COPY OF THE SERVICE REGISTER OF THE PETITIONER.

EXT.P7:- COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DT. 29.3.2000.

EXT.P8:- COPY OF THE ORDER ISSUED BY THE 4TH RESPONDENT DT. 2.3.01.

EXT.P9:- COPY OF THE LETTER SENT TO THE 4TH RESPONDENT BY THE 1ST RESPONDENT DT. 30.8.99.

EXT.P10:- COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DT. 16.5.01.

EXT.P11:- COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DT. 21.6.06.

EXT.P12:- COPY OF THE ORDER OF THE 4TH RESPONDENT DT. 19.5.07 IN IA. NO.16/07 IN OA. 6/07.

EXT.P13:- COPY OF THE SAID NOTICE ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER DT. 9.3.07.

/TRUE COPY/

P.S. TO JUDGE

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V.GIRI, J.

W.P.(C).No.20060 of 2007 K

Dated this the 22th day of November, 2007.

JUDGMENT

The petitioner is a Lower Division Clerk in the Sree Ramaswamy Temple, Thiruvangad, Thalassery. Her case is that she was appointed on 31.12.1999. The 2nd respondent was also appointed as Lower Division Clerk. While so, the 2nd respondent was promoted as Upper Division Clerk as evidenced by Ext.P11. The petitioner filed an Original Application O.A.No.6/2007 before the Deputy Commissioner invoking the provisions of Section 57(e) of the Hindu Religious and Charitable Endowments Act {for short "the Act"}. The Commissioner, exercising his powers under Section 19 of the Act, withdrew the said Original Application to his file. The petitioner raised an objection regarding the maintainability of the proceedings before the Commissioner. The Commissioner overruled the objection under Ext.P12 order. The petitioner has filed this writ petition challenging Ext.P11, which is an entry in the Service Book relating to the 2nd respondent by which, she has been promoted as Upper Division Clerk and also for a declaration that the Commissioner has

no jurisdiction to pass the order promoting the second respondent as Upper Division Clerk.

2. In my view, if the petitioner is aggrieved by the promotion of the 2nd respondent, overlooking her claim for seniority, it is up to her to take appropriate proceedings under the Act. I note that such a remedy might be available only under Section 18 and 99 of the Act. I do not express any final opinion in this regard. But, I am satisfied that an original application would not be maintainable as against the promotion of the 2nd respondent under Section 57(e) of the Act. I, therefore, hold that the original application would not be maintainable before the Commissioner under Section 57(e) of the Act.

3. For these reasons, I am of the view that the petitioner may approach the appropriate authority under the Act, if she has a grievance as against the promotion of the 2nd respondent. At this juncture, learned counsel for the petitioner sought permission to withdraw the original application filed before the Deputy Commissioner in the first instance, which is now pending before the Commissioner. Learned

Government Pleader has no objection to the said course of action.

4. In the result, Ext.P12 order passed by the Commissioner is quashed. O.A.No.6/2007 pending before the Commissioner will stand dismissed as withdrawn. Petitioner is at liberty to take appropriate steps under the Act in relation to the promotion of the 2nd respondent, as evidenced by Ext.P11. The status quo prevailing shall continue for a period of two months from today.

Writ petition is disposed of as above.

Sd/-

(V.GIRI)
JUDGE

sk/

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